villager it is said that the aggrieved party will place his orahu on the path leading to the land concerned as a warning to the offender. If he does not take heed the aggrieved will have recourse to sorcery or physical violence, or he may (less commonly) bring it before the assembled men of the village. If all are agreed on a course of action but the offender refuses to comply, he may be evicted. Two men of the subordinate subclan were threatened with eviction for alleged theft of produce shortly before our arrival. No further thefts occurred.

At present the only body with effective power to settle disputes is the Department of Native Affairs to which the people frequently have recourse. Just prior to our arrival one man had reported another villager for animal trespass and damage to his crops. The matter was settled by an informal payment of damages arranged in the presence of a member of the official patrol staff.

Current problems in relation to the enforcement of rights are discussed on pages 76-77.

village, but one who was married to an Andiriha woman remained and planted coffee. At his invitation, several Andiriha men from Inonda village planted coffee in the same area. They claimed that as the Endehi'undi had been defeated in war two generations previously and had not occupied this land since, and as the scattered remnants of the Endehi'undi were long since absorbed into other villages, their rights had lapsed. They maintained that the person who cleared the virgin bush after the Mt. Lamington eruption had valid rights to plant cash crops there, and was entitled to invite his relations to plant there with him. As an additional precaution, however, the first man to plant coffee there obtained the approval of the only member of the Endehi'undi living in Hohota. When another Endehi'undi man from Ururu village was widowed about two years ago, he moved into the household of an Andiriha man who has coffee on this land.

Of course there is no traditional precedent to apply to rights to cash crops, but after the coffee had been planted for nearly a year, some of the Endehi'undi went to the Administration and claimed that the land was theirs, and that as the coffee had been planted on their land without their permission, it was also theirs. An officer of the Department of Native Affairs brought the parties together and it was ultimately agreed that the coffee planters could continue to occupy the land provided that they paid the Endehi'undi for the land. The Endehi'undi were given about £16 in cash, pigs, traditional valuables and taro. The precise rights transferred by this exchange are not clear, and the participants have differing views as to their respective rights, for the Andiriha consider that they have acquired absolute proprietary rights, whereas the Endehi'undi maintain that they have not disposed of proprietary rights. It is perhaps significant that the Endehi'undi man from Ururu village, who was widowed about two years ago, was taken in to the house of one of the Andiriha men who has coffee on this land.

The Department of Native Affairs has no legal power to determine land disputes and the arrangement is accordingly

614 not legally binding.(1) In fact, however, the parties to this dis-
423 pute assume that the officer concerned does have the necessary
425 power to enforce the agreement, and thus it is effective for the
657 present, particularly as it has been reinforced by registration of
692 the land with the council. The Endehi'undi nevertheless intend
518 to re-assert their rights to this land at a later date. When they find that the existing arrangement is not binding, they may either simply revoke it or apply to the Lands Commission for reinstatement of their earlier rights.

614 Our third example concerns the Jego'undi sub-clan
423 of Inonda. Neither of the two adult members of this sub-clan
425 has planted cash crops. One of them had prepared ground for
518 planting cocoa on the site of his former food garden, but his right to do so was questioned by the Andiriha and he abandoned the attempt. As already explained, the Jego'undi are in a subordinate position to the Andiriha, and though their ancestor did contribute to the transfer of gifts at the time the Inonda people acquired their lands, their numbers are small and their status is low. Their continued residence in the village is thus dependent on their passive compliance with the wishes of the Andiriha leaders. They spoke of leaving this village for either of two other villages to which they are linked by ties of kinship and marriage, but they are aware that wherever they move their

(1) Officers of the Department of Native Affairs exercised widespread jurisdiction in land matters (and settled disputes in Inonda) until their power to do so was curtailed as a result of two important judgements. The first was a judgement made on 19th July, 1957, by the Court of Appeal in the case of Bosin v. Havini in which it was ruled that although Regulation 59 of the Native Administration Regulations of New Guinea gave magistrates (usually in practice Native Affairs patrol staff exercising their magisterial functions) the power to decide the ownership of land, this power had been repealed by implication by the Native Land Registration Ordinance 1952, which provided that the ownership of customary land in both Papua and New Guinea could only be determined by the Native Lands Commission. This judgement made the situation in New Guinea identical with what it had always been in Papua i.e. that district courts could settle questions of land use but not questions of land ownership. On 8th April, 1960, however, in its judgement in the case Soape v. Westiki, the Supreme Court held that district courts could not make decisions about land use where such decisions were based on implied assumptions about the ownership of the land concerned. As most decisions about land use are based on assumptions about its ownership, the district courts have generally declined to handle any cases relating to land matters of any sort.

the undisputed property of the Andiriha - albeit a different sub-clan. The occupying sub-clan is said to be agreeable to the shift, partly because one of the Inonda families originates from a lineage of the sub-clan at Hohota. Another alternative is to move to Ajoro, the "home" village of the Tandai'undi clan. The Ajoro people are said to have invited them to come, and to have offered them land on which to plant their food crops. Some felt that residence with the Tandai'undi would reinforce their existing hold on the land they at present use, but others fear that if trouble arose between them and the Tandai'undi they may have to leave.(1)

A further possibility which has been considered is for the village to split - the Jego'undi going either to Mosou to occupy the land given them by their mother's brother or to Urio to join their mother's lineage, the Andiriha who originate from Hohota lineage removing there, and the balance of the Andiriha, who have close kinship links with the Ajoro people, moving there to live. A final possibility is to remove the whole village back near their food gardens at Inonda I. The actual outcome will no doubt depend on the internal relations between villagers and the external relations between this village and the others in the vicinity.

The past history of the Inonda lands and the current problems encountered with cash crop planting there indicate that there are serious tenure problems at the sub-clan level. It appears that the definition of sub-clan or village boundaries and the rationalization of land rights in such a way that only one clan, sub-clan or village has rights in any one area would be conducive to higher productivity and less dispute. The Native Lands Commission has the power to define boundaries and rightholding groups on the application of any of the parties claiming rights in an area. But in fact there is one Native Lands Commissioner for the whole of the Northern District (with a population of 51,000) and he is required to do his own surveying, collection of genealogies and clerical work without

(1) The people are clearly disturbed by the knowledge that the government survey recorded the Inonda land as "belonging" to the Tandai'undi.

assistance. The system of investigation followed by the Commission is very detailed, and accordingly in the period of three years since the Commissioner was posted to the district only about five disputes have been settled. Already 34 other cases are awaiting deliberation and many other disputants would take their cases to the Commission if an early decision was possible. Owing to the lack of staff it will probably be many years before they can be heard. The scale of the problem appears to be so vast that it may well be beyond the capacity of the Commission to cope with for many years to come.(1) To overcome the problem in a short time would require either tremendous expansion of the Lands Commission or delegation of authority to deal with such matters to local (and possibly indigenous) tribunals.(2)

In the meantime the area is left without adequate machinery for the definition of rights and the settlement of disputes. Indigenous leaders, whether councillors, clan heads or other elders have no legal right to determine disputes, and although they are frequently able to exert social pressure to have their decisions enforced, they cannot apply any legal sanctions. It seems that such decisions are frequently effective within the lineage or sub-clan because the leaders are in intimate contact with the disputants and can apply effective social sanctions. This is much less so with respect to disputes be-

(1) - Since this article was written, the Native Lands Commission has been joined with the existing Land Titles Commission to form a new Land Titles Commission. The enabling legislation (Land Titles Commission Ordinance 1962) was passed by the legislature in 1962 but was not assented to by the Governor General until April 1963. The new Commission has only seven commissioners to serve the whole of Papua and New Guinea.

(2) This is a widespread pattern elsewhere in the Pacific. For example, in the Gilbert and Ellice Islands, the Lands Commission is composed entirely of indigenous members, though the Chief Lands Commissioner (who is an expatriate official) sits with them on appeal cases. The Lands Commission in Fiji is comprised of a commissioner (who is usually a Fijian) and a number of Fijian assessors who are elected for the particular area by the Provincial Council. The Land and Titles Court of Western Samoa is comprised of a President (who is also Chief Judge of the High Court), not less than two Samoan judges and not less than one assessor. In practice, however, it more frequently sits with three Samoan judges and two or more assessors who are usually Samoans.

tween sub-clans or villages.(1)

Officers of the Department of Native Affairs are still in some instances able to effect reconciliations or to settle disputes despite their lack of legal powers. This is not only because disputants are sometimes prepared to accept the judgement of a disinterested third party, but also because almost all Orokaiva people we have met are of the opinion that patrol staff do have the power to enforce their "recommendations". The fear of sorcery is still recognized as a sanction against transgression of property rights and informants quoted instances of sorcery having been used to punish transgressions of fishing rights. It is a commonplace that where adequate alternative facilities for settling disputes are not available, sorcery tends to increase. Though it is certainly extant in Inonda we have no evidence to indicate whether it is increasing or not.

The definition of boundaries and owning sub-clans would increase social stability and security of tenure, but in the course of time, due to population increase in some clans and decrease in others, it would become increasingly unrelated to clan needs. It is therefore necessary that any action to define boundaries and ownership should be associated with facilities for the transfer of rights between clans, or between individual members of different clans.

In the pre-contact era warfare was probably the most important means by which major areas of land were transferred between descent groups, and when warfare is abolished it is essential that alternative facilities for land transfer be provided. In many colonial territories where warfare previously tended to bring land areas into line with population numbers, colonial governments have abolished warfare but have not provided adequate alternative means of transfer, and this invariably leads

(1) Disputes between sub-clans or villages are sometimes settled by the Executive of the Higatura Council. They have no legal power to enforce decisions, but they are often able to persuade parties to accept their advice.

for short periods as indentured labourers on the newly-established European plantations or on the wharves of Port Moresby or Samarai. Most men sampled the novelty for a short time but quickly returned to the village; some showed little interest in the wider life introduced by the white men but a few were greatly influenced and spent years away from home in paid employment such as the Papuan Constabulary.

SOCIAL STRUCTURE

The Yega constitute a social and political unit and regard themselves as separate and distinct from the similar groups around them, even though all speak mutually understandable dialects of the same language. Each of these groups may therefore be termed a parish. Before the enforced abandonment of warfare early this century, these parishes lived in a situation of constant enmity and changing military alliances. In the absence of effective natural barriers on the plain, each group concentrated upon the production of its food supplies as close as possible to its home villages; tracts of forest which served as hunting areas and as reservoirs of wild food and building materials also served as 'no man's lands' surrounding the territory of each parish group. As hunting rights to these forest areas were obtained by daring individuals who ventured far into them, near the swidden areas of neighbouring groups, it is not surprising that such

[P.5-B]

692
659
619
423
578

claims by two or more groups frequently overlapped (Fig. 2). Because of this situation,

102
131
799
423
578

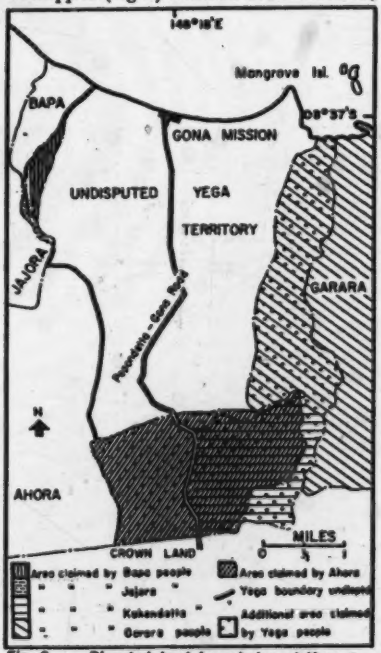

Fig. 2. Disputed land boundaries of Yega territory. (Redrawn from an original map by the Land Titles Commissioner, Popondetta.)

(P.6-A)

619
423
578
692
657

a Land Titles Commissioner today has the difficult task of adjudicating the rival claims of two or more groups to the same areas of forest land; each group can, moreover, produce men who can point out the trees marked by their ancestors and each group is convinced that they alone are in the right and the others merely conniving liars, who will use any methods to steal the land. The intensity of feeling which people generate over land became evident one day when I attended a meeting called by the Land Titles Commissioner to discuss rights to a small area between the Yega and a neighbouring parish. As my Yega friends and I left at the conclusion of the meeting we came on a group of Yega men in the bush fifty yards from the meeting site; they had prepared a supply of sharpened 8 foot poles 'just in case', they said, 'the others started a fight over the land!' Doubtless the other side was similarly prepared.

614
613
[619]
591
178

The Yega parish is composed of eight named, exogamous, localised clans most of which are divided into sub-clans and lineages; descent is patrilineal. On marriage, a girl leaves her father's house and goes to live in the house provided by her husband; in past times the couple invariably went to live in the same village as the husband's father, but nowadays the rules have been greatly relaxed. Each clan

614
784

has a different totemic emblem which serves as a kind of trademark. If the totem is an animal or edible plant it may not be eaten for food.

614
613

An abbreviated table illustrating the Yega social structure is given in Table 1. [P.6-B]